

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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Joyce D.,

Plaintiff,

v.

S.S.D.I. Appeals Council,

Defendant.

Case No. 2:23-cv-01344-DJA

Order

Before the Court is Plaintiff Joyce D.'s motion for leave to proceed *in forma pauperis*. (ECF No. 1). Because the Court finds that Plaintiff has demonstrated an inability to prepay fees and costs or give security for them, it grants the application. However, because the Court finds that Plaintiff's complaint has not met the basic requirements to satisfy screening, it dismisses her complaint without prejudice and with leave to amend. The Court finds these matters properly resolved without a hearing. LR 78-1.

I. Discussion.

A. The Court grants Plaintiff's in forma pauperis application.

Plaintiff has submitted the affidavit required by 28 U.S.C. § 1915(a) showing an inability to prepay fees and costs or give security for them. Plaintiff explains that she is unemployed and that her son pays for everything. The Court thus finds that Plaintiff is unable to pay an initial partial filing fee and grants the application to proceed *in forma pauperis*.

B. Plaintiff's complaint does not pass the Court's screening.

Plaintiff's complaint does not meet the basic requirements to pass screening. When a plaintiff seeks leave to file a civil case *in forma pauperis*, the court will screen the complaint. See 28 U.S.C. § 1915(e). For social security appeals, judges in this district consider four requirements for complaints to satisfy screening. See, e.g., *Graves v. Colvin*, 2015 WL 357121, *2 (D. Nev. Jan. 26, 2015) (collecting cases). See *id.* First, the complaint must establish that

1 administrative remedies were exhausted under 42 U.S.C. § 405(g) and that the plaintiff filed the
2 application within 60 days after notice of the Social Security Commissioner's final decision. *See*
3 *id.* Second, the complaint must indicate the judicial district in which the plaintiff resides. *See id.*
4 Third, the complaint must state the nature of the plaintiff's disability and when the plaintiff
5 claims to have become disabled. *See id.* Fourth, the complaint must contain a plain, short, and
6 concise statement identifying the nature of the plaintiff's disagreement with the determination
7 made by the Social Security Administration and show that the plaintiff is entitled to relief. *See id.*

8 Here, Plaintiff's complaint only satisfies the second requirement. Specifically, Plaintiff
9 provides her address which shows that she lives in the jurisdictional bounds of this Court. (ECF
10 No. 1-1 at 1). Plaintiff's complaint does not satisfy the other requirements, likely because she
11 completed a complaint form that was not designed for her Social Security claim. Because
12 Plaintiff's complaint does not meet each of the requirements, it does not satisfy screening and the
13 Court dismisses Plaintiff's complaint without prejudice and with leave to amend. The Court will
14 send Plaintiff the correct form for her complaint.

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16 **IT IS THEREFORE ORDERED** that Plaintiff's application to proceed *in forma*
17 *pauperis* (ECF No. 1) is **granted** with the caveat that the fees shall be paid if recovery is made.
18 At this time, Plaintiff shall not be required to pay the filing fee.

19 **IT IS FURTHER ORDERED** that Plaintiff is permitted to maintain this action to
20 conclusion without the necessity of prepayment of any additional fees or costs or the giving of
21 security therefor. The Order granting leave to proceed *in forma pauperis* shall not extend to the
22 issuance of subpoenas at government expense.

23 **IT IS FURTHER ORDERED** that the Clerk of Court is kindly directed to file the
24 complaint (ECF No. 1-1) but shall not provide notice of this action to the Commissioner pursuant
25 to Rule 3 of the Supplemental Rules for Social Security.

26 **IT IS FURTHER ORDERED** that the complaint (ECF No. 1-1) is **dismissed**
27 **without prejudice** for failure to state a claim upon which relief can be granted, with leave to
28 amend. Plaintiff will have until **March 28, 2024** to file an amended complaint if the noted

1 deficiencies can be corrected. If Plaintiff chooses to amend the complaint, Plaintiff is informed
2 that the Court cannot refer to a prior pleading (i.e., the original complaint) to make the amended
3 complaint complete. This is because, generally, an amended complaint supersedes the original
4 complaint. Local Rule 15-1(a) requires that an amended complaint be complete without reference
5 to any prior pleading. Once a plaintiff files an amended complaint, the original complaint no
6 longer serves any function in the case. Therefore, in an amended complaint, as in an original
7 complaint, each claim and the involvement of each Defendant must be sufficiently alleged.

8 **Failure to comply with this order will result in the recommended dismissal of this case.**

9 **IT IS FURTHER ORDERED** that the Clerk of Court is kindly directed to mail a copy of
10 this order to Plaintiff along with a copy of the Form Complaint for Review of a Social Security
11 Disability or Supplemental Security Income Decision.¹

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13 DATED: February 27, 2024

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15 DANIEL J. ALBREGTS
16 UNITED STATES MAGISTRATE JUDGE
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28 ¹ This form can also be found online at <https://www.uscourts.gov/forms/pro-se-forms/complaint-review-social-security-decision>